

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re Terrorist Attacks on September 11, 2001	03 MDL 1570 (GBD) (SN) ECF Case
-----------------------------------------------	------------------------------------

This document relates to: All Cases

ORDER APPROVING NOTICES TO CONFORM AND SHORT FORM COMPLAINTS

On March 17, 2017, the Plaintiffs' Executive Committees, on behalf of eight cases remanded to this Court pursuant to the February 7, 2017 Remand and Vacatur Order of the Second Court of Appeals, filed a Consolidated Amended Complaint as to the Kingdom of Saudi Arabia ("Saudi Arabia") and the Saudi High Commission for Relief of Bosnia & Herzegovina ("SHC"), ECF No. 3463. Between March 17 and March 23, 2017, plaintiffs in the *Burnett*, *Euro Brokers*, and *Continental Casualty* cases, who had previously brought claims against SHC, filed amended complaints closely tracking the CAC and adding Saudi Arabia as a defendant in those actions. *See* ECF Nos. 3470, 3477, and 3478.

On March 24, 2017, the Court issued an Order directing the Plaintiffs' Executive Committees ("PECs") to submit a proposal "for the most effective way for parties who are filing new complaints against Saudi Arabia to join or adopt the Consolidated Amended Complaint ("CAC"), consonant with the Federal Rules of Civil Procedure and the Rules of Procedure of the Judicial Panel on Multi District Litigation." ECF No. 3482. On April 5, 2017, the PECs submitted a letter proposing two procedures for the adoption of the CAC by plaintiffs in the MDL proceedings: (1) a Notice to Conform the underlying complaints in actions that have already been filed against Saudi Arabia or SHC to the CAC; and (2) a Short Form Complaint that can be utilized to initiate suit against Saudi Arabia and SHC pursuant to the CAC, by plaintiffs who have not yet filed suit. ECF No. 3502.

On April 12, 2017, at the request of the PECs, the Court granted the Committees' request to submit amended proposals of their Notice to Conform and Short Form Complaint that had been submitted on April 5, 2017. ECF No. 3513. On April 14, 2017, the PECs submitted a letter (1) proposing an amended Short Form Complaint that can be used by plaintiffs who have not yet filed suit to initiate suit against Saudi Arabia and SHC pursuant to the CAC or that can be used by plaintiffs who have already filed suit to incorporate the CAC allegations into their existing pleadings, and (2) recommending that the Notice to Conform proposed on April 5, 2017, also be an option available to plaintiff who have already filed complaints against Saudi Arabia or SHC to conform the underlying complaints to the CAC. ECF No. 3519.

On April 24, 2017, the Court held a telephone conferences with the PECs and counsel for Saudi Arabia to address the Court's several points of clarification regarding the PECs' proposed Notices to Conform and Short Form complaints. ECF No. 3528. On April 28, 2017, the PECs submitted a revised proposed Short Form Complaint and revised proposed order for the court's consideration. ECF No. 3533.

The Court hereby approves the Notice to Conform submitted for consideration on April 5, 2017 and Short Form Complaint submitted by the Plaintiffs' Executive Committees on April 28, 2017, and further orders as follows:

1. Notice to Conform. Any plaintiff who has a claim pending in this MDL may adopt the CAC through the filing of a Notice to Conform substantially in the form attached hereto as Exhibit A or by making the appropriate selections indicated in the Short Form Complaint substantially in the form attached hereto as Exhibit B. Upon filing a Notice to Conform (using either Exhibit A or B), the plaintiff's underlying complaint shall be deemed amended to include the factual allegations, jurisdictional allegations, and jury trial demand of the CAC, as well as all causes of action specified in the Notice to Conform. The amendment

affected by the Notice to Conform shall relate solely to Saudi Arabia and the SHC, and shall not apply to any other defendant, as to which the plaintiff's underlying complaint and any amendments thereto shall remain controlling. If the underlying complaint of a plaintiff who files a Notice to Conform does not name Saudi Arabia or SHC as a defendant, the plaintiff shall be deemed to have added Saudi Arabia and/or SHC to his or her constituent case through the filing of the Notice to Conform, unless the Notice to Conform specifies otherwise. Upon service of the Notice to Conform upon the defendants via ECF, the amendment of the plaintiff's underlying case to conform to the CAC shall be deemed to have been served. Any motion to dismiss or responsive pleading filed by Saudi Arabia or SHC to the CAC shall be deemed applicable to all actions in which a Notice to Conform is filed, regardless of when the Notice to Conform is filed.

By filing a Notice to Conform, a plaintiff shall not be deemed to have adopted any class-action allegations set forth the CAC or waived any right to object to class certification or to opt out of any certified class. The filing of a Notice to Conform also does not serve as a request for exclusion from any class that the Court may certify.

2. Short Form Complaint. Any plaintiff who has not yet filed a claim against Saudi Arabia or SHC, but intends to do so, may initiate an action against Saudi Arabia and SHC through the filing of a Short Form Complaint, substantially in the form attached hereto as Exhibit B. Any such new action initiated through the filing of a Short Form Complaint shall be filed in a new docket, and designated as related to this MDL. Counsel filing a new action through a Short Form Complaint shall submit a letter to the Honorable George B. Daniels and the Honorable Sarah Netburn, docketed in this MDL, requesting that the new action be made part of this MDL. Upon filing of a Short Form Complaint, a plaintiff shall be deemed to have asserted the factual allegations, jurisdictional allegations, and jury trial demand of the CAC, as well as all causes of

action specified in the Short Form Complaint. After filing of the Short Form Complaint via ECF, the filing plaintiff shall timely submit an appropriate request for waiver of service to counsel for Saudi Arabia and the SHC. Any motion to dismiss or responsive pleading filed by Saudi Arabia or SHC to the CAC shall be deemed applicable to all actions initiated through a Short Form Complaint, regardless of when the Short Form Complaint is filed.

By filing a Short Form Complaint, a plaintiff shall not be deemed to have adopted any class-action allegations set forth in the CAC or waived any right to object to class certification or to opt out of any certified class. The filing of a Short Form Complaint also does not serve as a request for exclusion from any class that the Court may certify.

As new complaints are being filed against Saudi Arabia, the Court would like to put all plaintiffs on notice that, in the event that liability is ultimately established against Saudi Arabia, solatium claimants shall be required to present documentary evidence of their family relationship to a 9/11 decedent for the Court's review. Such evidence would consist of birth or marriage certificates or, in their absence, sworn affidavits attesting to a family relationship eligible for recovery. For deceased solatium claimants, a death certificate or sworn affidavit shall be requested to ensure that the claimant did not predecease the 9/11 victim. Cf. ECF No. 3442, 3445 (orders vacating judgments against Islamic Republic of Iran and dismissing claims of solatium claimants who had pre-deceased victims). Although liability and damages are bifurcated in this case, the Court strongly encourages all plaintiffs to gather the necessary documentation before or shortly after the filing or amendment of their complaints, because such documentation may be more difficult to obtain with the passage of time.

SO ORDERED.

Dated: May 3, 2017
New York, New York



SARAH NETBURN
United States Magistrate Judge